



# Unemployment Compensation Trust Fund

## *Questions and Answers*

-UPDATED-  
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What are the key financing  
components of the  
unemployment insurance (UI)  
trust fund?

## **KEY UNEMPLOYMENT INSURANCE (UI) FINANCING COMPONENTS**

### **Introduction**

The state of Missouri's unemployment insurance (UI) trust fund became insolvent in March 2003 and the state was required to borrow money from the federal government to pay unemployment benefits. The outstanding Title XII debt as of December 31, 2004 was \$288,556,623.64. Additional Title XII advances were received during the months of January through April 2005 totaling \$91,681,944.55. These advances were repaid on June 29, 2005, thereby converting them to an interest free cash-flow advance pursuant to 20 CFR 606.32. An additional cash flow loan repayment of \$21,123,366 was made in June 2006 for amounts advanced during the first quarter of 2006. Missouri paid the long-term outstanding debt through payments of \$50,300,000 in November 2005, \$102,800,000 in November 2006 and \$135,456,624 in May 2007.

The Social Security Act that created the unemployment benefits system in the United States prescribed a two-tiered financing system. In addition to the contributions employers make to state unemployment trust fund accounts in order to pay unemployment benefits, employers also make contributions under the Federal Unemployment Tax Act (FUTA). Employers receive a federal unemployment tax credit of 5.4 percent against the FUTA rate of 6.2 percent resulting in a rate of .8 percent, provided the state's unemployment compensation (UC) system is certified by the United States Department of Labor (USDOL) and the employer timely pays the state unemployment tax. States that utilize an experience rating system collect contributions into a state unemployment trust fund where each employer's state unemployment tax rate is based upon the unemployment experience of that employer. The result of an experience rating system is that, over time, employers that tend not to lay off their employees receive a lower rate. Employers that utilize the fund to pay benefits more frequently receive a higher rate.

When a state is in a long-term borrowing situation, federal law prescribes a reduction to the federal unemployment tax credit of 5.4 percent in order to pay for the loan. The reduction to the credit is progressive. The first credit reduction of .3 percent occurs when a state carries a loan balance through January 1st for two consecutive years. The credit reduction for the third consecutive year is .6 percent, etc., until the loan is repaid. The state of Missouri carried an outstanding balance January 1st through two consecutive years and was subject to a reduction in the FUTA credit for federal taxes due January 2006. However, Governor Matt Blunt applied for avoidance of the FUTA credit reduction to save Missouri's employers the additional federal taxes. Because the state implemented legislative measures that effectively addressed the insolvency and was prepared to make a payment on the loan in the amount of the potential FUTA credit reduction, the USDOL approved the application for avoidance of FUTA credit reduction that was submitted for 2005. A similar application for avoidance was approved by the USDOL in calendar year 2006. The state paid \$50.3 million in 2005 and \$102.8 million in 2006 to reduce the loan balance and avoid FUTA credit reduction. If the state of Missouri had not taken the

necessary steps to avoid FUTA credit reduction, Missouri's employers would have paid additional federal taxes totaling \$50.3 million in 2005 and \$102.8 million in 2006.

The amounts collected for voluntary repayment through avoidance of the FUTA credit reduction have the advantage of being collected through the state's experience rating system. Employers receive credit for contributions in their individual experience rated accounts. Had the state of Missouri not pursued this strategy for repayment, the amounts collected through FUTA credit reduction would not have been applied toward Missouri employers' experience rates. Moreover, each employer pays FUTA contributions at the same rate regardless of the rate they receive through experience rating. Employers with a low experience rate would pay at the same rate as those at the highest rate. Since the loan amounts were repaid with experience rated contributions, higher rated employers paid a greater share of the loan repayment.

### **Missouri Trust Fund Projection Model**

The Missouri Department of Labor collaborates with the U.S. Department of Labor to project the balance of Missouri's trust fund (see Table 1 on page 3). The following pages expand on the concepts presented in this introduction and give explanations of key UI financing components that significantly impact trust fund solvency. This list of components is not inclusive of all factors that affect solvency. The most recent projections appear in the following table:

**Model No. 1**  
USDOL Recommended

**Missouri Trust Fund Projection with U.S. Department of Labor Benefit Financing Model**  
Projected IURs are based on economic conditions specified by the USDOL.

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>Total Unemployment Rate (TUR)</b>	5.26%	5.11%	5.11%	5.11%	5.11%	5.11%	5.11%	5.11%	5.11%	5.11%
<b>Insured Unemployment Rate (IUR)</b>	2.40%	2.40%	2.40%	2.40%	2.40%	2.40%	2.40%	2.40%	2.40%	2.40%
<b>Interest Rate Earned by Trust Fund</b>	4.30%	4.30%	4.60%	4.80%	4.90%	5.00%	5.00%	5.00%	5.00%	5.00%
<b>Maximum Weekly Benefit Amount (MWBA)</b>	\$280	\$320	\$320	\$320	\$320	\$320	\$320	\$320	\$320	\$320
<b>Taxable Wage Base (TWB)</b>	\$11,000	\$12,000	\$12,500	\$13,000	\$13,000	\$13,000	\$13,000	\$13,000	\$13,000	\$13,000
<b>Tax Range</b>	0-6%	0-6%	0-6%	0-6%	0-6%	0-6%	0-6%	0-6%	0-6%	0-6%
<b>Contribution Rate Adjustment (CRA)</b>	30%	30%	30%	30%	20%	0%	-7%	-7%	0%	10%
<b>Total Contributions Received</b>	\$566,737,687	\$605,435,124	\$611,606,642	\$620,925,447	\$645,544,810	\$592,185,011	\$482,772,507	\$441,563,159	\$447,023,321	\$520,213,214
<b>Total Benefits Paid</b>	\$428,256,163	\$484,337,202	\$513,867,760	\$530,613,439	\$545,168,611	\$557,284,251	\$566,721,177	\$574,849,466	\$582,334,104	\$589,901,044
<b>Trust Fund Balance First Quarter</b>	\$28,044,501	\$21,833,979	\$137,600,371	\$245,603,302	\$352,564,071	\$478,479,892	\$536,470,467	\$470,143,867	\$357,066,464	\$240,191,489
<b>Trust Fund Balance Second Quarter</b>	\$88,044,942	\$229,887,639	\$345,364,982	\$455,924,940	\$577,942,642	\$670,681,342	\$664,573,381	\$576,756,248	\$465,689,601	\$389,791,680
<b>Trust Fund Balance Third Quarter</b>	\$121,399,560	\$260,513,631	\$374,018,261	\$484,612,691	\$608,966,264	\$684,203,246	\$648,279,496	\$549,141,672	\$436,937,243	\$376,704,779
<b>Trust Fund Balance Fourth Quarter</b>	\$108,843,895	\$237,618,896	\$348,710,213	\$458,193,619	\$583,871,753	\$649,436,272	\$596,417,598	\$489,924,111	\$375,859,882	\$323,238,569
<b>Calendar Year (CY) Interest Earned by Trust Fund</b>	\$3,941,145	\$7,697,079	\$13,352,435	\$19,171,398	\$25,301,935	\$30,653,760	\$30,929,995	\$26,792,820	\$21,244,655	\$17,066,417
<b>Outstanding Title XII Loans</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Outstanding Bonded Indebtedness</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CY Ending Balance w/ Loans And Bonds</b>	\$108,843,895	\$237,618,896	\$348,710,213	\$458,193,619	\$583,871,753	\$649,436,272	\$596,417,598	\$489,924,111	\$375,859,882	\$323,238,569

DOL/ETA/OWMS  
Revised 04/17/2008

Based on actual data through 03/31/2008

Table 1

## **TAXABLE WAGE BASE – Section 288.036, RSMo.**

**The taxable wage base (TWB) is the amount of wages for each employee on which an employer must pay contributions. In 2001 and 2002, the TWB was \$7,000, which is the federal minimum. The TWB increased to \$7,500 in 2003 and to \$8,000 in 2004. Pursuant to legislation enacted in 2004, the TWB increased to \$11,000 in 2005. It remained at \$11,000 through 2007. The TWB increased to \$12,000 in 2008 and will be increased to \$12,500 in 2009. Beginning in 2010, the TWB will be determined by the trust fund balance.**

**When the average trust fund balance of the four preceding quarters (September 30<sup>th</sup>, June 30<sup>th</sup>, March 31<sup>st</sup>, and December 31<sup>st</sup> of the preceding calendar year) is less than, or equal to, \$350 million, then the wage base shall increase by one thousand dollars. If the balance in the fund is \$650 million or more, then the state taxable wage base for the subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall the state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven thousand dollars.**

## **EMPLOYER CONTRIBUTION RATE – Section 288.120, RSMo.**

After having a new employer rate for a designated period, a contributing employer is eligible for a contribution rate based on its experience with employment and unemployment. Contributory employers that do not participate in the Shared Work program are assigned a rate ranging from zero to six percent. Employers participating in the Shared Work program can have a maximum rate of nine percent. (See the section “Contribution Rate Adjustment” for information on how the base rate can be increased and decreased under current law.)

For calendar year 2008, 18,448 of Missouri’s 151,164 experience rated employers have a contribution rate of zero. Employers attain a zero rate when their account balance is at least 15 percent of its average annual payroll. The zero-rated employers report wages paid to their workers, but do not pay contributions. Zero-rated employers are not affected by contribution rate adjustments.

For an employer to be assigned a six percent rate, the employer’s account balance is deficit and the ratio of the account to the employer’s average annual taxable payroll is less than a negative 12. Including Shared Work employers, there are 6,185 employers that have a maximum base contribution rate of six percent or higher for 2008. Using the rate schedule developed for Shared Work employers, 6,004 of the maximum base rate employers who do not participate in the Shared Work program would have a rate higher than six percent if the law provided for higher rates for employers not participating in the Shared Work program. As of June 30, 2007, Missouri has seven Shared Work deficit employers whose base contribution rates range from 6.0 to 9.0 percent. Cumulatively, through June 30, 2007, Missouri’s maximum rated deficit employers (not participating in the Shared Work program) have paid less in contributions than their workers have received in benefits resulting in an accumulated deficit of approximately \$583.6 million over the life of the respective accounts. (See also the section responding to the question: “*How have Missouri’s deficit employer accounts impacted the fund in recent years?*”)

Employers who remain at the maximum rate for two consecutive years shall have a one-quarter percent (.25%) surcharge added to their rate. In the event that the employer remains at the maximum rate for a subsequent year(s), an additional one-quarter percent (.25%) surcharge shall be added each year until the cumulative surcharge is equal to one percent (1%). Should an employer continue to remain at the maximum rate, an additional one-half percent (.5%) surcharge shall be added. The total surcharge assessed to any employer will not exceed one and one half percent for any given year.



Tables 2 and 2A provide further detailed information regarding deficit vs. non-deficit employer account data as of June 30, 2007.

### Table of Deficit vs. Non-Deficit Employer

**Table 2**

	<b># Employers</b>	<b>Account Balance</b>	<b>Charges</b>	<b>Contributions</b>
<b>Non-Deficit</b>	137,947	\$2,258,616,591.73	\$207,827,175.32	\$429,304,969.53
<b>Deficit</b>	13,549	-\$582,959,456.30	\$153,283,936.40	\$107,723,989.78
<b>Total</b>	151,496	\$1,675,657,135.43	\$361,111,111.72	\$537,028,959.31

Source: 204 Experience Rate Data, June 30, 2007

**Table 2A**

	<b># Employers</b>	<b>Average Account Balance</b>	<b>Average Charges</b>	<b>Average Contributions</b>
<b>Non-Deficit</b>	137,947	\$16,373.08	\$1,506.57	\$3,112.10
<b>Deficit</b>	13,549	-\$43,026.01	\$11,313.30	\$7,950.70
<b>Total</b>	151,496	\$11,060.74	\$2,383.63	\$3,544.84

Source: 204 Experience Rate Data, June 30, 2007

## **CONTRIBUTION RATE ADJUSTMENT**

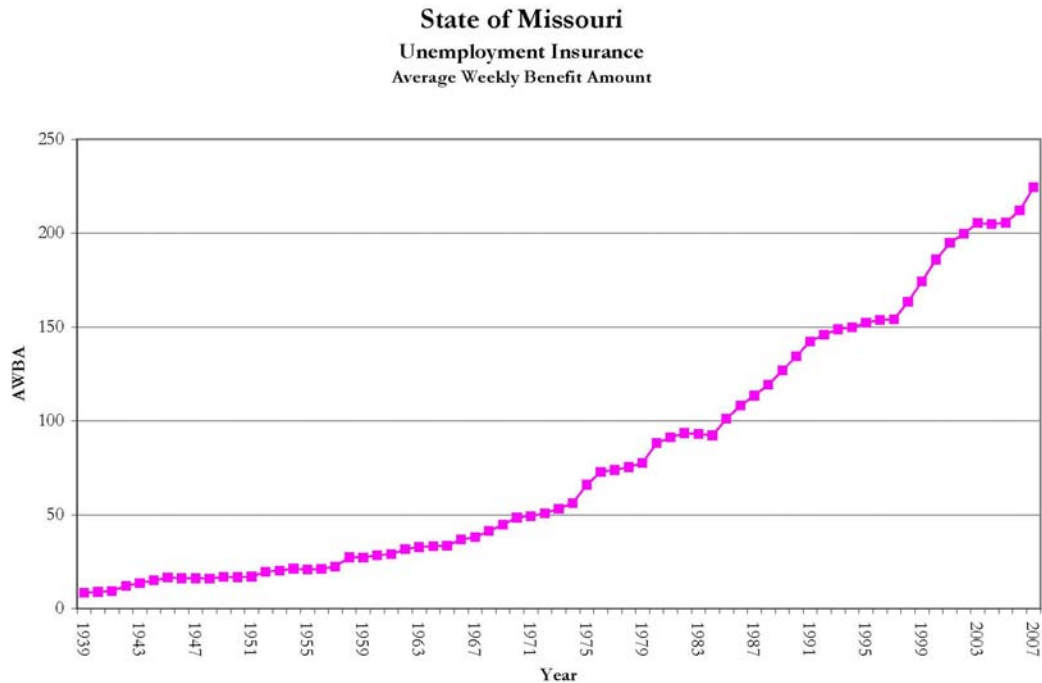
### **Sections 288.121 & 288.122, RSMo.**

Missouri law provides for a contribution rate adjustment (CRA) to either increase or decrease employers' contribution rates depending on the average balance of the trust fund. The CRAs, which are applicable on a calendar year basis, are "triggered" by the four-quarter average balance of the trust fund. The dollar amounts that trigger the increases or decreases are set by statute. If the trust fund's September 30<sup>th</sup> four-quarter average balance is less than \$350 million, a thirty percent (+30%) increase is applied to an employer's tax rate. If this balance is at least \$350 million, but less than \$400 million a twenty percent (+20%) increase is applied, and if this balance is at least \$400 million, but less than \$450 million, a ten percent (+10%) increase is applied. Negative adjustments occur to an employer's tax rate when the September 30<sup>th</sup> four-quarter average balance reaches certain levels. If this balance is in excess of \$600 million, but less than \$750 million, a seven percent (-7%) decrease is applied. If this balance is equal to or exceeds \$750 million, a twelve percent (-12%) decrease is applied.

Employers who were taxed at the maximum rate in calendar years 2005, 2006 and 2007 had a forty percent (+40%) increase applied to their rate. In calendar year 2008, the forty percent increase for maximum rated employers no longer applies.

## WEEKLY BENEFIT AMOUNT – Section 288.038, RSMo.

Chart 1



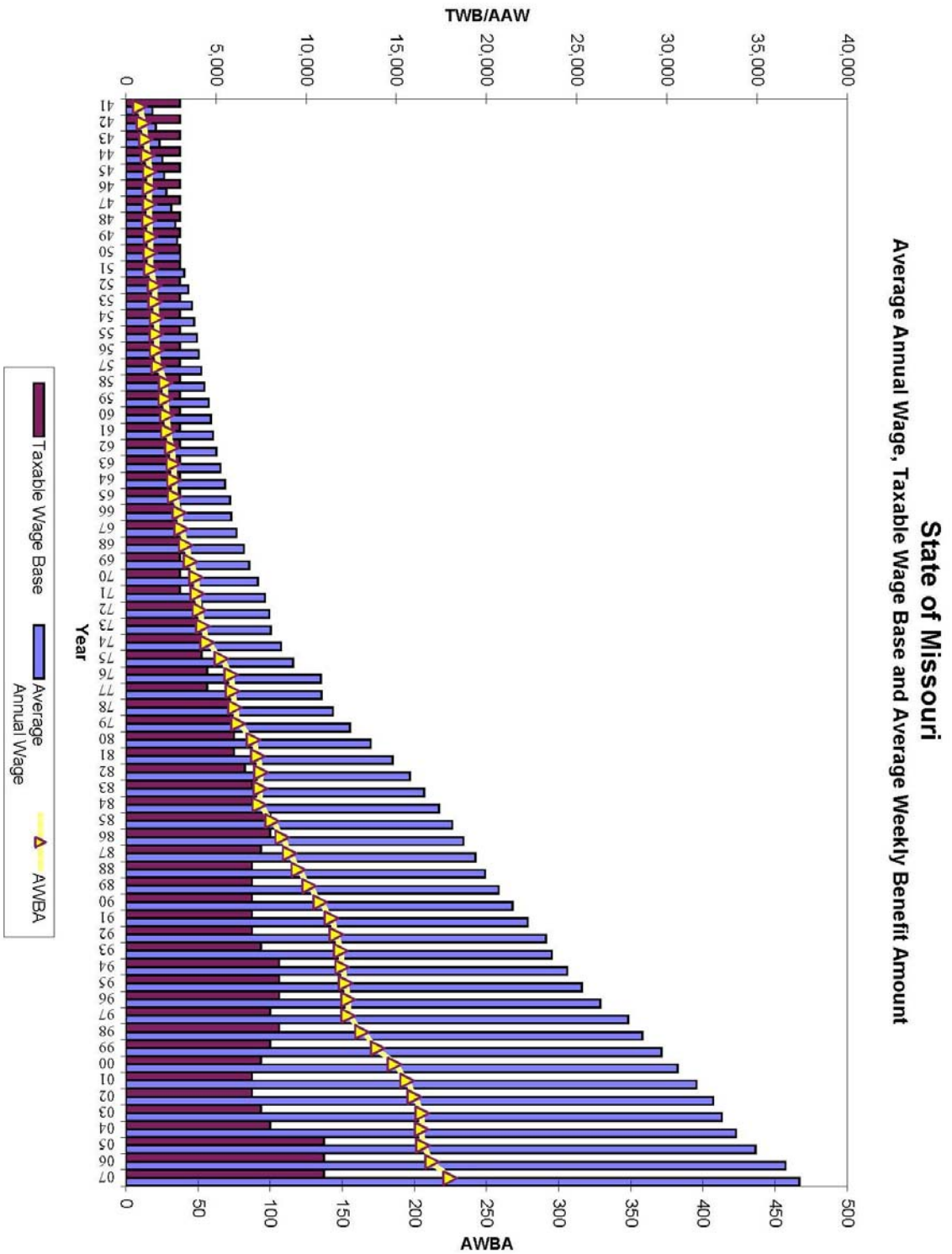
Source: U.S. Department of Labor “UI Data Summary”.

**Claimants qualify for a weekly benefit amount (WBA) based upon their earnings. The WBA eligible claimants receive can range from a legislatively mandated minimum up to a maximum weekly benefit amount (MWBA). The average weekly benefit amount (AWBA) is the average amount paid to all eligible claimants per week for a specified period.**

**Charts 1 and 2 reflect the AWBA. Recent legislation has increased the MWBA. In calendar year 2005, the MWBA was set at \$250. The MWBA increased to \$270 in 2006 and \$280 in 2007. In 2008, the MWBA increased to \$320 and is set to remain at that level.**

**For claims filed after calendar year 2008, the MWBA is calculated as 4 percent of the total wages paid to an eligible worker during the average of the two highest quarters of the worker’s base period, not to exceed \$320.**

Chart 2



Source: U.S. Department of Labor "UI Data Summary".

## **INSURED UNEMPLOYMENT RATE**

**The insured unemployment rate (IUR) is computed by dividing the insured unemployed for the current quarter by the covered unemployment for the first four of the last six completed quarters. “Insured unemployed” is the average number of weeks of unemployment benefits claimed for the three months of the quarter. “Covered employment” is the number of employees covered by UI and reported to the state by employers. United States Department of Labor IUR projections are used by the Division of Employment Security to forecast UI trust fund balances.**

How do the surrounding  
states compare with Missouri's  
number of employers and  
taxable wage base?

The following tables compare Missouri's number of employers and taxable wage base (TWB) to its bordering states.

Table 3

<b>NUMBER OF EMPLOYERS IN MISSOURI AND BORDERING STATES</b> (rounded to the nearest thousand)								
STATE	12 month period ending 12-31- 2007	12 month period ending 12-31- 2006	12 month period ending 12-31- 2005	12 month period ending 12-31- 2004	12 month period ending 12-31- 2003	12 month period ending 12-31- 2002	12 month period ending 12-31- 2001	12 month period ending 12-31- 2000
ARKANSAS	66,000	64,000	63,000	62,000	60,000	59,000	59,000	59,000
ILLINOIS	297,000	293,000	288,000	279,000	277,000	277,000	279,000	278,000
IOWA	72,000	71,000	70,000	69,000	69,000	67,000	69,000	69,000
KANSAS	71,000	70,000	70,000	69,000	68,000	67,000	68,000	67,000
KENTUCKY	86,000	84,000	85,000	84,000	81,000	89,000	89,000	86,000
NEBRASKA	48,000	47,000	47,000	45,000	46,000	46,000	45,000	44,000
OKLAHOMA	81,000	79,000	78,000	75,000	75,000	73,000	74,000	74,000
TENNESSEE	115,000	113,000	111,000	110,000	110,000	109,000	110,000	108,000
MISSOURI	139,000	138,000	135,000	134,000	131,000	129,000	129,000	128,000

Source: U.S. Department of Labor, "UI Data Summary"

Table 4

<b>TAXABLE WAGE BASE IN MISSOURI AND BORDERING STATES</b>									
STATE	2008	2007	2006	2005	2004	2003	2002	2001	2000
ARKANSAS	10,000	10,000	10,000	\$10,000	\$10,000	\$9,000	\$9,000	\$9,000	\$9,000
ILLINOIS	12,000	11,500	11,500	\$10,500	\$9,800	\$9,000	\$9,000	\$9,000	\$9,000
IOWA	22,800	22,000	22,000	\$20,400	\$19,700	\$19,200	\$18,600	\$17,900	\$17,300
KANSAS	8,000	8,000	8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000
KENTUCKY	8,000	8,000	8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000
NEBRASKA	9,000	9,000	9,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
OKLAHOMA	13,600	13,200	13,200	\$13,800	\$14,300	\$11,700	\$10,500	\$10,100	\$9,800
TENNESSEE	7,000	7,000	7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
MISSOURI	12,000	11,000	11,000	\$11,000	\$8,000	\$7,500	\$7,000	\$7,000	\$7,500

Source: U.S. Department of Labor, "Comparison of State Unemployment Insurance Laws 2008"

How are employer  
contribution rates calculated?



## CONTRIBUTION RATE

A contribution rate is the percentage assigned to an employer to determine the amount of contributions due the unemployment insurance trust fund on taxable wages paid. The Division, as provided in Section 288.090, RSMo, assigns all contributing employers a contribution rate. Each employer is assigned a new employer rate, an experience rate, a federal base rate, or an ineligible rate. The assigned contribution rate is applicable for the calendar year. For calendar year 2008, the contribution rates range from zero to six percent, plus or minus any contribution rate adjustment (CRA) and maximum deficit surcharges.<sup>1</sup> The surcharge is added before CRA is applied to the assigned rate.

An employer generally becomes eligible for a calculated contribution rate based on its own experience after two full calendar years of paying unemployment taxes at the new employer contribution rate. A calculated contribution rate is assigned based on the employer's unemployment experience. It is determined by dividing an employer's reserve account balance (contributions paid into the fund less benefits paid to eligible claimants) by its average annual taxable payroll.

The contribution rate most new employers are assigned is the average contribution rate of all employers within the same industry classification or 2.7 percent, whichever is higher, plus or minus any applicable CRA. For 2008, the new employer rate for businesses with industry classifications other than construction is 2.7 percent, plus a 30 percent CRA, bringing the final new employer rate to 3.51 percent. The beginning rate for new employers with a construction industry classification code is 3.619 percent, which includes the 30 percent CRA.

New non-profit employers, those exempt under Section 501(c)3 of the Internal Revenue Code and governmental entities receive a beginning contribution rate of 1.0 percent, plus or minus any applicable CRA. Alternatively, such entities may choose to reimburse the trust fund for all benefits paid to their employees in lieu of paying contributions to the trust fund.

### 8 CSR 10-4.040 of the Code of State Regulations Eligibility for Experience Rating

An employer shall be eligible for experience rating for a calendar year in the event that it was an employer on or before the first day of the twelve-month period immediately preceding the calculation date for that year; and there was no period of eight or more consecutive calendar quarters, in the first eleven of the last thirteen calendar quarters immediately preceding the calculation date for that year, in which no wages for employment were paid by that employer.

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<sup>1</sup> Employers who participate in the Shared Work Program can have an assigned contribution rate based on their experience above 6 percent. Section 288.120.2, RSMo provides a separate tax table for these employers. The maximum rate is 9 percent plus any applicable percent increase.

**Section 288.126, RSMo.**  
**Ineligibility for Rate Calculation**

If an employer is not eligible for a rate calculation after once becoming eligible because the employer did not have twelve consecutive calendar months immediately preceding the calculation date throughout which its account could have been charged with benefits, the employer's rate will be no less than:

- 2.7 percent, plus any CRA, if the employer has a positive experience rate account balance
- 5.4 percent, plus any CRA, if the employer has a deficit experience rate account balance

How are contribution rates  
determined for successorships  
and inactive employers?

## **SUCCESSORSHIP**

### **Legal Entity**

**An employing unit means any individual, organization, partnership, corporation or other legal entity which has in its employ one or more individuals performing services. A legal entity would be defined as the type of ownership operating a business.**

### **Successorship**

**Section 288.110.1, RSMo, provides that for successorship to occur in Missouri, two conditions must be met. First, the alleged successor employing unit must acquire substantially all the business of a liable Missouri employing unit. Second, the predecessor employing unit's business must be continued without interruption by the alleged successor employing unit.**

**Missouri Employment Security Law does not define "substantially all". The Division reviews what the predecessor's business consisted of prior to the change, and what, if anything, the business consisted of after the change.**

**An interruption is viewed as any cessation of the business during times that the business is normally open.**

**If the Division determines successorship has occurred, the predecessor employing unit's liability is terminated upon the effective date of successorship. If the predecessor employing unit resumes employment at a later date, it will be treated as a new employer under Missouri Employment Security Law.**

**If the Division determines the alleged successor did not acquire substantially all of the predecessor's business or an interruption occurred, successorship would not exist and the acquiring business entity would be treated as a new employer under Missouri Employment Security Law.**

**In August of 2004, the federal State Unemployment Tax Act (SUTA) Dumping Protection Act was signed into law. This act required states, as a condition of state eligibility for unemployment insurance compensation grants, to enact legislation to deter the manipulation of an employer's tax rate through SUTA dumping.**

**As a result of the federal SUTA Dumping Protection Act, Missouri enacted legislation that modified section 288.110, RSMo, to:**

- **Require transfers of experience in cases where employees are moved from one entity to another, and there is substantial commonality of ownership, management, or control between the two entities involved.**

- **Prohibit transfers of experience when the state agency finds that a business was acquired solely or primarily for the purpose of obtaining a tax rate that is lower than the new employer tax rate that would otherwise have been assigned.**
- **Impose civil and criminal penalties for those who knowingly violate or attempt to violate, and for those who knowingly advise another to violate, the above provisions.**
- **Establish procedures to identify potential instances of SUTA dumping.**
- **Require the section to be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.**

## **Termination**

**An employing unit that has no individuals in employment can request to have its unemployment account changed to an inactive status. When an employing unit's account is changed to an inactive status, it is not required to submit quarterly contribution and wage reports to the Division. However, it is the employing unit's responsibility to notify the Division when it resumes employment in Missouri.**

**If the Division is satisfied that an employing unit, which is an employer subject to Missouri Employment Security Law, has had no individuals in employment at any time during the four preceding calendar years, the Division terminates the status of the employing unit.**

**If an inactive employing unit resumes employment before its account is terminated, the account is reinstated with all of the employer's unemployment experience applied toward the employer's tax rate assignment. If the employing unit resumes employment after its status has been terminated, it will be treated as a new employer under Missouri Employment Security Law.**

How have Missouri's deficit employer accounts impacted the trust fund in recent years?

Increases or decreases to employers' tax rates are based upon each individual employer's experience ratio (the relation of how much an employer has paid into the trust fund as compared to how much has been paid in chargeable benefits on its behalf). If an employer's experience ratio is less than -12.0, the employer is assigned the maximum rate of six percent.<sup>1</sup> Even if employers continue to pay less into the trust fund than is paid in benefits to their former employees, the base tax rate assigned to their account may not increase. This results in a negative or deficit employer account balance that reduces the trust fund balance. The increasing accumulated deficit account balances adversely impact trust fund balances, particularly during economic downturns.

The following sets out figures relating to deficit employers:

As of June 30, 1999, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$374,551,383). This was an increase of \$3,163,849.

As of June 30, 2000, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$387,532,577). This was an increase of \$12,981,194.

As of June 30, 2001, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$433,614,080). This was an increase of \$46,081,503.

As of June 30, 2002, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$491,982,889). This was an increase of \$58,368,809.

As of June 30, 2003, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$563,977,531). This was an increase of \$71,994,642.

As of June 30, 2004, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$621,857,559). This was an increase of \$57,880,028.

As of June 30, 2005, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$671,391,727). This was an increase of \$49,534,168.

As of June 30, 2006, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$609,055,719). This was a decrease of \$62,336,008.

As of June 30, 2007, the accumulated account balance of employers with an experience ratio less than -12.0 was (\$583,580,896). This was a decrease of \$25,474,823.

**Note:** Employers with an experience ratio less than -12.0 are at the maximum contribution (tax) rate of six percent. This does not include those employers participating in the Shared Work program, as their rates may be as high as nine percent.

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<sup>1</sup> Employers participating in the Shared Work program receive the maximum rate where their ratio is less than -27.0

Source: Missouri Department of Labor Report :BBC028RS

What are the benefit charges,  
tax rates and employers with  
deficit accounts by industrial  
classification?



**The Division of Employment Security is frequently asked: What industry classification uses the fund the most? This question can be answered differently depending on the criteria used. Several scenarios using different criteria are set out below.**

**Scenario 1:** If benefit charges (amounts paid to claimants) are used as the criterion, the “manufacturing” classification uses the fund the most. There are 7,216 employers in this industry classification, of which 789 are deficit employers. These employers totaled approximately \$80,980,000 in benefit charges against their accounts. (See report DES-CRE114A and Table 5)

**Scenario 2:** If the number of employers in an industry classification is used as the criterion, the “other services” (except public administration) classification is the largest. This classification contains private household employers, beauty shops, automotive repair shops and other businesses that are not included in the other major industry classification categories. There are 21,472 employers in this classification, of which 1,710 are deficit employers. (See report DES-CRE114A and Table 5)

**Scenario 3:** If the number of deficit employers in an industry classification is used as the criterion, the “construction” classification has the largest number. There are 20,247 employers in this classification, of which 4,001 are deficit employers. (See report DES-CRE114A and Table 5)

REPORT-NO. DES-CRE114A (09-04)  
 -NORTH AMERICAN INDUSTRIAL  
 CLASSIFICATION

MISSOURI DIVISION OF EMPLOYMENT SECURITY  
 UI OPERATIONS/QUALITY CONTROL  
 ANALYSIS OF EMPLOYER ACCOUNTS AT JUNE 30, 2007  
 NUMBER OF  
 EMPLOYERS

03/10/2008

NORTH AMERICAN INDUSTRIAL CLASSIFICATION				NUMBER OF EMPLOYERS				WAGES (\$000)				ACCOUNT BALANCES (\$000)				THE AVERAGE TAX CY-08				MAXIMUM RATED			

**EMPLOYERS WITH A CONTRIBUTION TAX RATE  
OF SIX PERCENT  
OR GREATER BY INDUSTRY TYPE**

Analysis of Employer Accounts for Year Ending June 30, 2007

Table 5

Type of Industry	*Number of Employers		Employers with Contribution Tax Rate of Six Percent or Greater		Benefit Charges FY 2007 (amounts paid to claimants)
	Total	Deficit	Number	Percentage	
Agriculture, Forestry, Fishing & Hunting	1,302	271	191	3.1%	1,326,320.86
Mining	221	47	20	0.3%	972,825.17
Utilities	292	12	7	0.1%	57,346.52
Construction	20,294	3,991	1973	31.9%	29,159,665.29
Manufacturing	7,226	784	353	5.7%	27,664,610.05
Wholesale Trade	12,955	867	355	5.7%	1,262,173.01
Retail Trade	15,669	945	359	5.8%	1,187,206.66
Transportation & Warehousing	5,468	663	309	5.0%	7,196,391.60
Information	1,965	150	66	1.1%	2,136,409.39
Finance & Insurance	7,564	358	127	2.1%	341,202.40
Real Estate, Rental & Leasing	5,964	409	168	2.7%	910,733.86
Professional, Scientific & Technical	15,942	766	298	4.8%	943,435.14
Management of Companies and Enterprises	640	35	18	0.3%	139,997.83
Admn/Support, Waste Mgt/Remediation Services	8,812	1,003	495	8.0%	3,749,869.20
Educational Services	1,292	57	26	0.4%	125,367.91
Health Care and Social Assistance	11,130	428	129	2.1%	1,527,888.11
Arts, Entertainment and Recreation	2,219	254	138	2.2%	2,170,767.06
Accommodation & Food Services	9,944	744	355	5.7%	6,019,057.23
Other Services (Except Public Admn)	21,506	1,709	772	12.5%	2,582,785.61
Public Administration	1,054	56	22	0.4%	37,436.22
Unclassified	37	0	0	0.0%	-
<b>TOTALS</b>	<b>151,496</b>	<b>13,549</b>	<b>6,181</b>	<b>100.0%</b>	<b>89,511,489.12</b>

\* Represents active employers and employers with accounts that have gone inactive during the last two years

Note: Employers with a contribution tax rate greater than six percent are participating in the Shared Work program

Source: Statistics Provided by the Missouri Division of Employment Security - Based Upon 2008 DES-CRE114A Analysis of Employer Accounts, 03-10-2008.

# **YEARLY BENEFIT CHARGES FOR DEFICIT EXPERIENCE EMPLOYERS BY INDUSTRY TYPES**

Analysis of Employer Accounts for Year Ending June 30, 2007

Table 6

<b>Type of Industry</b>	<b>*Total Number of Deficit Employers</b>	<b>Deficit Employer Benefit Charges FY 2007 (amount paid to claimants)</b>
Agriculture, Forestry, Fishing & Hunting	271	1,881,400
Mining	47	1,533,507
Utilities	12	82,582
Construction	3,991	53,106,415
Manufacturing	784	37,979,068
Wholesale Trade	867	3,529,420
Retail Trade	945	4,280,139
Transportation & Warehousing	663	10,268,144
Information	150	3,828,583
Finance & Insurance	358	1,367,387
Real Estate, Rental & Leasing	409	2,573,820
Professional, Scientific & Technical	766	3,947,467
Management of Companies and Enterprises	35	215,865
Admin/Support, Waste Mgt/Remediation Services	1,003	7,073,280
Educational Services	57	265,829
Health Care and Social Assistance	428	3,533,221
Arts, Entertainment and Recreation	254	3,400,556
Accommodation & Food Services	744	9,401,822
Other Services (Except Public Administration)	1,709	4,802,561
Public Administration	56	212,872
Unclassified	0	0
<b>TOTALS</b>	<b>13,549</b>	<b>153,283,936.40</b>

\* Represents active employers and employers with accounts that have gone inactive during the last two years

Source: Statistics Provided by the Missouri Division of Employment Security - Based Upon 2008 DES-CRE114A  
Analysis of Employer Accounts, 3-10-2008.

How does the average  
duration of Missouri claims  
compare with the average  
duration of other states?

Table 7

Average Duration of Weeks Claimed 12-month period ending December 31, 2007	
<b>United States</b>	<b>15.2</b>
Alabama	12.0
Alaska	14.4
Arizona	15.1
Arkansas	14.5
California	16.8
Colorado	13.4
Connecticut	16.1
Delaware	17.2
District of Columbia	19.1
Florida	14.4
Georgia	11.2
Hawaii	13.4
Idaho	11.3
Illinois	17.3
Indiana	13.3
Iowa	12.9
Kansas	13.5
Kentucky	13.5
Louisiana	15.0
Maine	14.1
Maryland	14.7
Massachusetts	18.0
Michigan	14.8
Minnesota	16.4
Mississippi	14.5
Missouri	14.0
Montana	14.8
Nebraska	12.3
Nevada	14.4
New Hampshire	12.6
New Jersey	18.1
New Mexico	16.3
New York	17.1
North Carolina	13.9
North Dakota	11.9
Ohio	15.2
Oklahoma	15.1
Oregon	14.0
Pennsylvania	16.2
Rhode Island	15.6
South Carolina	13.8
South Dakota	11.3
Tennessee	13.9
Texas	14.8
Utah	12.7
Vermont	14.4
Virginia	12.4
Washington	13.1
West Virginia	13.5
Wisconsin	13.2
Wyoming	12.7

Source: U.S. Department of Labor "UI Data Summary"

What are pool charges  
and how do they affect  
the trust fund?

## **NON-CHARGING PROVISIONS (POOL CHARGES)**

Section 288.100.1(4), RSMo, in certain circumstances, provides for non-charging of contributing employers that pay quarterly contributions. The Division of Employment Security has separated the non-charged benefit payments into five categories or pools as follows:

### **Disqualification and More Remunerative Work (MRW)**

Section 288.100.1(4)(a) provides, “no benefits based on wages paid for services performed prior to the date of any act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any employer directly involved in such disqualifying act.”

Section 288.100.1(4)(b) states, “in the event the deputy has in due course determined pursuant to paragraph (a) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit his work with an employer for the purpose of accepting a more remunerative job with another employer which the claimant did accept and earn some wages therein, no benefits based on wages paid prior to the date of the quit shall be chargeable to the employer the claimant quit.”

**Note:** These combined causes cannot be separately identified with the Division’s existing computer programs.

### **Temporary Employer**

Section 288.100.1(4)(c) has two non-charging provisions, which are also divided into two different pools. First, when the deputy has determined under section 288.050 that a claimant has quit temporary work with an employer to return to the claimant’s regular employer, no charges are made to the temporary employer’s account. The regular employer receives the charges that would have been assigned to the temporary employer.

### **Part-Time Employed**

The second part of section 288.100.1(4)(c) provides that charges resulting from benefits based on wages paid for part-time work shall be removed from the account of the employer furnishing the part-time work if the employer continued to employ the individual, while claiming benefits, at least to the same extent as previously employed and informs the division within thirty days from the date of notice of the benefit charges.



## **Less than \$400.01**

Section 288.100.1(4)(d) also has two non-charging provisions that are shown in two different pools. First, no charges will be made to an employer's account with respect to benefits paid to an individual if the gross amount of wages paid by the employer is four hundred dollars or less during the individual's base period of the claim.

## **Probationary Employment**

The second part of section 288.100.1(4)(d) provides for no charge to an employer's account with respect to benefits paid to an individual if the length of employment was twenty-eight days or less which is referred to as the probationary period and such has been reported to the division as required by regulation.

## **Annual Comparison of Benefits Not Charged to Employers' Accounts**

### **Fiscal Year July 1, 2006 through June 30, 2007:**

- The total benefit charges were \$467,063,862.24 .
- The total pool charges were \$49,801,816.38.
- Pool charges represent 10.66 percent of the total charges.
  - Disqualification and More Remunerative Work (MRW) pool charges were \$48,675,987.30, which represents 10.42 percent of the total charges.

### **Fiscal Year July 1, 2005 through June 30, 2006:**

- The total benefit charges were \$431,599,009.33 .
- The total pool charges were \$48,196,864.39.
- Pool charges represent 11.17 percent of the total charges.
  - Disqualification and More Remunerative Work (MRW) pool charges were \$46,945,485.33, which represents 10.88 percent of the total charges.

### **Fiscal Year July 1, 2004 through June 30, 2005:**

- The total benefit charges were \$517,234,867.55.
- The total pool charges were \$81,683,859.81.
- Pool charges represent 15.79 percent of the total charges.
  - Disqualification and More Remunerative Work (MRW) pool charges were \$79,976,683.27, which represents 15.46 percent of the total charges.

### **Fiscal Year July 1, 2003 through June 30, 2004:**

- The total benefit charges were \$639,168,690.93.
- The total pool charges were \$102,447,137.50.
- Pool charges represent 16.03 percent of the total charges.
  - Disqualification and More Remunerative Work (MRW) pool charges were \$100,382,473.17, which represents 15.71 percent of the total charges.

How is severance pay  
addressed under Missouri  
Employment Security Law?

## **SEVERANCE PAY**

**Section 288.036.1, RSMo, defines what remuneration is considered as wages and states in part, “Severance pay shall be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b) . . . .”**

**Based on the above section of law, employers must report severance pay as wages paid and pay contributions on those wages, providing the employee’s earnings have not already reached the taxable wage base applicable for the calendar year.**

**Section 288.060.3, RSMo, gives an exception to claimants receiving severance pay when determining the benefit amount payable each week. It states in part, “Termination pay, severance pay . . . shall not be considered wages for the purpose of this subsection.”**

**Therefore, severance pay is not considered as reportable earnings by the claimant and is not deductible from a claimant’s weekly benefit amount.**

What is the extended recall  
provision?

## **EXTENDED RECALL**

**Section 288.040.1(2)(b), RSMo, provides that a claimant will not be determined to be ineligible for not actively and earnestly seeking work if that claimant is temporarily unemployed through no fault of his/her own and has a definite recall date within eight weeks of his/her first day of unemployment. The eight-week period can be extended by the Director of the Division of Employment Security, but not for a period to exceed sixteen weeks beyond the claimant's first day of unemployment.**

**The recall provision allows employers to retain trained employees during periods of short-term unemployment.**

What is the waiting week?

## **WAITING WEEK**

**Missouri law requires a waiting week to be claimed each benefit year before any payments can be made. This waiting week must be a week for which the claimant is otherwise eligible. Beginning in calendar year 2008, the waiting week is compensable once the remaining balance on a claim is equal to or less than the benefit amount for the waiting week.**

**As of January 1, 2008, Texas, Tennessee and Missouri have waiting weeks that are compensable after satisfying established criteria. Fourteen states do not have a waiting period. Thirty-three states and the District of Columbia have a waiting period that is not subsequently compensated.**

What percent of discharges  
have resulted in a  
disqualification in recent  
years?



## PERCENTAGE OF CLAIMANTS DISQUALIFIED ON DISCHARGE ISSUES

The Division of Employment Security is charged with the proper administration of the Missouri Employment Security Law, Chapter 288 of the Revised Statutes of Missouri (RSMo). The Missouri Courts have interpreted Chapter 288 through case law and the Division must administer the chapter consistent with that case law. Pursuant to both Missouri and federal law, the Division is required to promptly pay unemployment benefits to those individuals that meet all of the eligibility requirements. Therefore, the Division of Employment Security is required to examine each unemployment claim to determine if the claimant meets all of the statutory requirements. A claimant is generally responsible for proving his or her eligibility for benefits. See the court case *O'Dell v. Division of Employment Security*, 376 S.W.2d 137, 142 (Mo. 1964). However, where a claimant has been discharged from his or her employment, the employer bears the burden of proving by competent and substantial evidence that the claimant was discharged for misconduct. See the court case *Dameron v. Drury Inns, Inc.*, 190 S.W.3d 508, 512 (Mo. App. 2006).

The general purpose of Employment Security Law is to provide for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. See the court case *O'Dell v. Division of Employment Security*, 376 S.W.2d 137, 141 (Mo. 1964). The act is to be liberally construed to accomplish this purpose. *Id.* at 141-142. Furthermore, the disqualifying provisions are to be narrowly construed. *Id.* at 142.

Therefore, the Missouri Courts have held that not every violation of a work rule constitutes misconduct which will disqualify an individual from receiving unemployment benefits. "There is a vast distinction between the violation of a rule of an employer that would justify the discharge of the employee and a violation of such rule that would warrant a determination of misconduct connected with the employee's employment so as to disqualify him for unemployment compensation benefits." See the court case *McClelland v. Hogan Personnel, LLC*, 116 S.W.3d 660, 665 (Mo.App. 2003). "Poor workmanship, lack of judgment, or the inability to do the job do not disqualify a claimant from receiving benefits on the basis of misconduct." *Id.* To disqualify a claimant from receiving unemployment benefits, the employer must prove that the claimant willfully disregarded the employer's interest. See the court cases *McClelland v. Hogan Personnel, LLC*, 116 S.W.3d at 666; and *Dameron v. Drury Inns, Inc.*, 190 S.W.3d 508, 512 (Mo. App. 2006).

A claimant who is disqualified for misconduct does not receive benefits until he/she has earned insured wages in an amount equal to six times his/her weekly benefit amount. Should the claimant be disqualified on a second or subsequent occasion within the base period, the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's weekly benefit amount for each disqualification.

Table 8 shows the percent of discharges that resulted in a disqualification for misconduct each year from calendar year 1989 through calendar year 2007.

**Table 8**

<b>Year</b>	<b>Percent of Discharges that result in a Disqualification for Misconduct</b>
<b>1989</b>	<b>42.1</b>
<b>1990</b>	<b>42.5</b>
<b>1991</b>	<b>42.6</b>
<b>1992</b>	<b>44.0</b>
<b>1993</b>	<b>43.4</b>
<b>1994</b>	<b>42.4</b>
<b>1995</b>	<b>42.2</b>
<b>1996</b>	<b>43.1</b>
<b>1997</b>	<b>43.6</b>
<b>1998</b>	<b>44.7</b>
<b>1999</b>	<b>43.9</b>
<b>2000</b>	<b>42.4</b>
<b>2001</b>	<b>40.8</b>
<b>2002</b>	<b>41.6</b>
<b>2003</b>	<b>43.0</b>
<b>2004</b>	<b>44.9</b>
<b>2005</b>	<b>43.7</b>
<b>2006</b>	<b>43.0</b>
<b>2007</b>	<b>41.7</b>

Source: USDOL ETA-207 Report

How are the issues of  
absenteeism and alleged drug  
usage addressed under  
Missouri Employment  
Security Law?

## **ABSENTEEISM AND MISCONDUCT**

Absenteeism does not always constitute misconduct connected with the work. The Missouri Courts have narrowly construed the misconduct disqualification provision with regard to the issue of absenteeism.

The Missouri Courts have held that “[t]here is a vast distinction between the violation of an employer’s work rule, which would justify the discharge of the employee, and a willful, wanton, or deliberate violation of such rule, which would warrant a determination of misconduct disqualifying the claimant for unemployment-compensation benefits.” See the court case *Dameron v. Drury Inns, Inc.*, 190 S.W.3d 508, 512 (Mo. App. 2006). “Absenteeism in and of itself is not misconduct.” *G. C. Services Limited Partnership v. Labor and Industrial Relations Commission*, 913 S.W.2d 411, 414 (Mo. App. 1996). “[A]bsences due to illness or family emergency are absences caused through no fault of Employee and as such cannot be willful misconduct, especially if properly reported to Employer.” See the court case *Garden View Care Center, Inc. v. Labor and Industrial Relations Commission*, 848 S.W.2d 603 606 (Mo. App. 1993). See also *Croy v. Division of Employment Security*, 187 S.W.3d 888, 893 (Mo. App. 2006) and *Dameron v. Drury Inns, Inc.*, 190 S.W.3d 508, 511-12 (Mo. App. 2006).

Furthermore, in *Tutwiler v. Fin-Clair Corporation*, 995 S.W.2d 497, 499 (Mo. App. 1999), the Missouri Court of Appeals stated as follows:

The determination of whether excessive absences are statutory misconduct is a separate consideration from whether an employee violated the absenteeism policy of his employer. Thus, even though claimant violated work attendance rules, his noncompliance is irrelevant to determining the issue of unemployment benefits. Misconduct that may justify firing does not, of necessity, justify denial of unemployment benefits. [Citations omitted.]

The Division of Employment Security is required to follow this case law in administering the Missouri Employment Security Law. The Division’s policy has been to examine the employee’s attendance record to determine if there is a pattern of absenteeism or tardiness that could constitute misconduct. However, in accordance with the above-cited case law, the Division may not consider absences due to illness or family emergency, if properly reported, to be misconduct that would disqualify an individual from receiving unemployment benefits.

In 2006, the Missouri Legislature amended Section 288.050.3, RSMo, relating to an employee’s violation of the employer’s attendance policy. Pursuant to Section 288.050.3, RSMo, an employee’s violation of the employer’s attendance policy may create a rebuttable presumption of misconduct that would disqualify the employee from receiving unemployment benefits. The Missouri Courts have not interpreted the current version of Section 288.050.3, RSMo.

## **NON-MONETARY DETERMINATIONS RELATING TO DRUG USAGE**

**In 2004, the Missouri Legislature enacted Section 288.045, RSMo, which includes specific provisions related to disqualifying a claimant from receiving benefits due to violation of an employer's drug and alcohol policy. The section became effective January 1, 2005, and was modified in 2006 by HB 1456. The section sets forth a number of elements that, if proven by the employer, disqualify a claimant from receiving unemployment benefits due to the violation of the employer's drug and alcohol policy. The section also removed the requirement that employers had to prove impairment of work performance for the claimant to be disqualified for violation of an employer's drug and alcohol policy.**

**While enacting Section 288.045, RSMo, the Missouri Legislature did not repeal the general misconduct provision contained in Section 288.050.2, RSMo. As a result, the Missouri Courts held that Section 288.045 was not the exclusive statute for analyzing employee drug or alcohol violations, but that Section 288.050.2, RSMo, also applied to such violations. See the court case *Division of Employment Security v. Comer*, 199 S.W.3d 915 (Mo.App. 2006). Therefore, the analysis for a drug or alcohol violation is a two-step process. The first step is to analyze the drug or alcohol violation under Section 288.045, RSMo. If all elements of Section 288.045 are not met, the second step is to analyze the violation under Section 288.050.2, RSMo. The legislative changes clarify that the employer no longer has to prove impairment of work performance for a claimant to be disqualified from receiving unemployment benefits under Section 288.050.2, RSMo.**

How do discharge  
disqualification periods in  
Missouri compare with other  
states?

## **OVERVIEW OF COMPARISON OF STATE MISCONDUCT PENALTIES**

**In Missouri, a claimant who is disqualified for committing misconduct must return to work and earn six times his/her weekly benefit amount in subsequent insured wages. Should a claimant be disqualified on a second or subsequent occasion within the base period, the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's weekly benefit amount for each disqualification.**

**A review of the “2007 Comparison of State Unemployment Insurance Laws” was conducted to identify the penalty applied by each State to an individual who is found to be discharged for misconduct connected with the work. Table 9 presents penalty information.**

# COMPARISON OF MISCONDUCT PENALTIES BY STATE

(Gross misconduct not included)

2008

Table 9

State	Includes Other Than Last Employer	Benefits Postponed For:		Benefits Reduced Or Canceled	Disqualification For Disciplinary Suspension
		Number Of Weeks	Duration Of Unemployment Until Requalify 1/		
AL	X 2/	W + 3-7		Equal	W + 1-3
AK		W + 5 3/		3 x WBA	Same as discharge for misconduct
AZ			5 x WBA		
AR		W + 7			Lesser of duration of suspension or 8 weeks
CA			5 x WBA		
CO		WF + 10		Equal	
CT			10 x WBA		Same as discharge for misconduct
DE			4 weeks of work and 4 x WBA		
DC	X 2/	WF + 7		8 x WBA	
FL	X 2/	W + 1-52 3/	17 x WBA		Duration
GA			10 x WBA	Equal	Same as discharge for misconduct
HI			5 x WBA		
ID	X 2/		14 x WBA		
IL			Wages equal to WBA in each of 4 weeks		
IN			Wages equal to WBA in each of 8 weeks	25%, only one reduction during benefit year	
IA			10 x WBA		Same as discharge for misconduct
KS			3 x WBA		
KY			10 weeks of covered work and wages equal to 10 x WBA		
LA			10 WBA		
ME			4 x WBA		Duration or until earns 4 x WBA
MD	X 2/	W + 5-10			Same as discharge for misconduct
MA	X 2/		8 weeks of work and wages of 8 x WBA		
MI			17 x WBA		
MN			8 x WBA		Duration
MS			8 x WBA		
MO	X 2/		6 x WBA		Same as discharge for misconduct
MT			Wages equal to 8 x WBA		



		Benefits Postponed For:			
State	Includes Other Than Last Employer	Number Of Weeks	Duration Of Unemployment Until Requalify 1/	Benefits Reduced Or Canceled	Disqualification For Disciplinary Suspension
NE	X 2/	12		Equal	
NV			Wages equal to WBA in each of 15 weeks		
NH			5 weeks work in each of which earned 20% more than WBA 3/		Duration
NJ	X 2/	W + 5			Same as discharge for misconduct
NM			5 x WBA in covered work		
NY			3 days work in each of 5 weeks and 5 x WBA		
NC		3/	10 x WBA in at least 5 weeks	3/	
ND	X 2/		10 x WBA		Duration
OH	X 2/		6 weeks in covered work plus wages equal to 27.5% of state aww		Duration
OK			10 x WBA		
OR			4 x WBA	8 x WBA	
PA			6 x WBA		Same as discharge for misconduct
PR			4 weeks of work and wages equal to 10 x WBA		Same as discharge for misconduct
RI	X 2/		8 weeks of covered work equaling 20 x minimum hourly wage in each week		Same as discharge for misconduct
SC		WF + 5-26		Equal	
SD	X 2/		6 weeks in covered work and wages equal to WBA each week		Same as discharge for misconduct
TN	X 2/		10 x WBA		
TX			6 weeks of work or wages equal to 6 x WBA		
UT	X 2/		6 x WBA in covered work		
VT		WF + 6-12			
VA	X 2/		30 days or 240 hours of work		
VI			4 weeks of work and 4 x WBA		Same as discharge for misconduct
WA			10 weeks and earnings in bona fide work 10 x WBA		Same as discharge for misconduct
WV	X 2/	W + 6		Equal 4/	
WI			7 weeks elapsed and 14 x WBA	Benefit rights based on any work involved canceled	
WY			12 x WBA		

KEY: W = Week of discharge or week of suspension. WF = Week of filing. "Equal" indicates a reduction equal to the WBA multiplied by the number of weeks of disqualification.

1/ Minimum employment or wages to requalify for benefits.

2/ Disqualification pertains only to last separation unless indicated. In AL, the preceding separation may be considered if last employment is not considered bona fide work; in FL, ID, MD, MA, MO, OH, RI and UT, a previous employer may be considered if the work with the separating employer does not satisfy a potential disqualification. In VA, disqualification is applicable to last employing unit for which claimant has worked 30 days or 240 hours; In DC, SD, and WV, disqualification is applicable to last 30day employing unit on new claims and to most recent employer on additional claims; any ER with whom the individual earned 8 x WBA, ND, and 10 x WBA, TN. In NE, reduction or forfeiture of benefits applicable to separations from any BP employer. In NJ provided the period of disqualification has not elapsed prior to the date of claim.

3/ In FL, both the term and the duration-of-unemployment disqualifications are imposed. In AK the disqualification is terminated if claimant returns to work and earns 8 x WBA. In NH, disqualification is terminated if either condition is satisfied. In NC, the agency may reduce permanent disqualification to a time certain, but not less than 5 weeks. When permanent disqualification changed to time certain, benefits are reduced by an amount equal to the number of weeks of disqualification x WBA. Also, an individual will be disqualified for substantial fault on the part of the claimant that is connected with work but not rising to the level of misconduct. The disqualification will vary from 4-13 weeks depending on the circumstances.

4/ In WV benefit reduction is restored if individual returns to covered employment for at least 30 days within BY.

What are Reed Act funds and  
how can they be used?

## **REED ACT FUNDS**

**The Employment Security Administrative Funding Act of 1954 provided that when the Federal Unemployment Account (FUA), Extended Unemployment Compensation Account (EUCA) and Employment Security Administration Account (ESAA) are at their statutory limits, and FUA has not been advanced any money from general revenues, that the annual excess be allocated to the States in proportion to covered payrolls. This distribution is referred to as Reed Act money. In March 2002, Missouri received a Reed Act distribution of approximately \$161 million.**

**Reed Act funds represent a flexible funding source, which states can use for a variety of special outlays. A state can use Reed Act funds: (1) to pay unemployment compensation, or (2) subject to state legislative appropriation, for administrative expenses. Reed Act funds are deposited in the individual state's trust fund account with the US Treasury. Missouri's 2002 Reed Act distribution was used entirely to pay unemployment compensation.**

What financing options are available while the trust fund is insolvent?

## **FINANCING OPTIONS**

**When the unemployment compensation fund does not have sufficient funds to pay benefits, two options exist under Missouri law: 1) borrow funds from the United States Treasury (Title XII advances) pursuant to 42 USC 1321; or 2) sell or issue credit instruments pursuant to section 288.330, RSMo.**

**The Governor or his designee may request authorization to borrow funds from the United States Treasury. These funds are considered repayable advances and accrue interest charges except in certain circumstances. The interest rate for these advances is set annually as the 4<sup>th</sup> quarter unemployment compensation fund quarterly yield rate.**

**The authority to sell or issue credit instruments, pursuant to section 288.330, RSMo, resides with the Board of Unemployment Fund Financing. This five member board, composed of the Governor, Lieutenant Governor, Attorney General, Director of the Department of Labor and Industrial Relations and the Commissioner of the Office of Administration, has all powers necessary to effectuate a method of providing funds for the payment of unemployment benefits or maintaining adequate fund balances in the unemployment compensation fund.**

What are FUTA credits and  
what impact does outstanding  
Title XII advances have  
on them?

## **FEDERAL UNEMPLOYMENT TAX ACT (FUTA) CREDITS**

The FUTA tax rate pursuant to 26 USC 3301 is 6.2 percent. Provided that a state's unemployment compensation system is certified by the United States Department of Labor (USDOL) pursuant to 26 USC 3303, an employer is eligible to receive a federal unemployment tax credit of 5.4 percent against the total FUTA rate of 6.2 percent resulting in a tax rate of .8 percent. However, if a state has an outstanding Title XII advance balance January 1<sup>st</sup> through two consecutive years, and the balance has not been completely repaid by November 10<sup>th</sup>, and the state has not been granted avoidance by the USDOL, the state's employers shall be subject to a FUTA credit reduction to repay the outstanding loan. During the first year of a credit reduction, the reduction shall equal .3 percent. The amount of the credit reduction increases annually by a minimum of .3 percent, unless an additional credit reduction is imposed or a cap is granted.

In order for a state to be granted avoidance, three criteria enumerated in 20 CFR 606.23 must be met. First, the state must make a partial payment in the amount of the advances made under Title XII of the Social Security Act during the one-year period ending November 9<sup>th</sup> of the applicable tax year and a payment equal to the amount of tax credits that would be lost if the avoidance application were not approved. Second, the state's unemployment compensation fund must have sufficient funds to pay benefits for the three-month period following November 1<sup>st</sup> of the applicable tax year without receiving any advance under Title XII of the Social Security Act. Finally, there must be a net increase in solvency of the state's unemployment compensation fund for the applicable tax year equal to or in excess of the FUTA credit reduction. The net solvency must be attributable to legislative changes made after the date of the first advance.

In 2005 and 2006, Governor Blunt submitted to the USDOL applications for avoidance of FUTA credit reductions. The USDOL approved both applications. The approval of the applications saved Missouri's employers more that \$153 million in additional federal taxes.



# What is the Missouri State Unemployment Council?

## **MISSOURI STATE UNEMPLOYMENT COUNCIL**

**The Missouri State Unemployment Council was formed pursuant to section 288.475, RSMo. The Council is charged with advising the Division of Employment Security (DES) in carrying out the purposes of Unemployment Insurance Law.**

**The Council is comprised of eleven members. Nine are voting members, and two are nonvoting. Membership appointments are made by the Governor, Speaker of the House and President Pro-Tem of the Senate. The membership is chosen to represent the interest of employers, employees and the public.**

**Final recommendations from the Council are submitted to the Governor and General Assembly before January 15 each year.**

# What are Extended Benefits?

## **EXTENDED BENEFITS**

**Extended Benefits refers to the supplemental program that pays extended unemployment compensation to workers who have exhausted regular unemployment insurance benefits during periods of high unemployment.**

**Extended Benefits are only paid during declared periods of specified high unemployment to individuals for weeks of unemployment after the individual:**

- **Has drawn the maximum potential entitlement to regular compensation within their benefit year (exhausted their claim); or**
- **Has exhausted rights to regular compensation under any state or federal law and is not receiving compensation under the Canadian law.**

**When the national unemployment rate exceeds a certain level, the federal government may declare an extended benefit period. The Extended Benefits program may provide up to 26 weeks of additional benefits, as specified. The weekly benefit amount of Extended Benefits is the same as the individual received for regular unemployment compensation.**

**If an extended benefit period is declared, the Division of Employment Security notifies those who have exhausted rights to regular benefits that they may be eligible for Extended Benefits.**

**Extended Benefits are paid from the federal Extended Unemployment Compensation Account, which is funded from federal unemployment taxes paid by employers. Extended Benefits are not paid out of the Missouri Unemployment Compensation Trust Fund.**

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